



MAIL

Paper No. 14

MAY 20 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:

RAAF, BERNHARD

Application No. 09/699,835

Filed: October 30, 2000

For: DATA TRANSMISSION WITH INTERRUPTION PHASES

DECISION ON PETITION

This is a decision on the Petition filed May 2, 2003, which is being treated under 37 C.F.R. § 1.8 to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on April 10, 2002. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner alleges to have timely filed a response to the non-final Office action. In support, Petitioner has provided a copy of a response to the non-final Office action including a Certificate of Facsimile Transmission dated July 10, 2002.

Under 37 CFR 1.8(a)(1), correspondence is considered timely if

(1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and

(2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.


Pursuant to 37 CFR 1.8(b), a correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence (emphasis added):

1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The statement required in item 3.) above must be from the party who forwarded the original correspondence. In the instant transmission Werner H. Stemer signed the Certificate of Facsimile Transmission. He must make the statement in accordance with 37 CFR 1.8(b)(3).

For the reason above, the petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.
Extensions of time under 37 CFR 1.136(a) are not permitted.



Jin F. Ng, Director
Technology Center 2600
Communications